

From: [Meredith Laws](#)
To: [John Hebert](#); [Jennifer Gaines](#); [Bill Jacobs](#); [Dan Peacock](#); [Gene Benbow](#)
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Pesticides
Federal Court Rules EPA's Conditions
On Registrations Not Unreasonable, Arbitrary

By [Pat Ware](#)

A federal district court has ruled that the Environmental Protection Agency's conditional registrations of five products by a Pennsylvania rodenticide maker were valid and not arbitrary or capricious (Woodstream Corp. v. EPA, D.D.C., No. 11-cv-0867, 2/28/12).

In a Feb. 28 [order and memorandum opinion](#) on motion for summary judgment, the U.S. District Court for the District of Columbia said it was not unreasonable for EPA to impose conditions unrelated to test data on the registrations in light of the Federal Insecticide, Fungicide, and Rodenticide Act's legislative history, as well as other conditions EPA routinely imposes.

In May 2008, EPA issued a risk mitigation decision setting restrictions for 10 rodenticides, including the five products registered by Woodstream Corp. of Lititz, Pa. Products not complying with the requirements would be considered misbranded and subject to enforcement action, EPA said.

June 4 Deadline Set

The risk mitigation decision imposed restrictions on products containing difencacoum and bromethalin released for shipment after June 4, 2011. It also prohibited the sale of difencacoum products to consumers and imposed other conditions on the sale, including packaging and labeling requirements.

Woodstream filed a complaint May 9, 2011, seeking a preliminary injunction to prevent EPA from enforcing two conditions of registration for its VICTOR® rodenticide products ([100 DEN A-2, 5/24/11](#))

Among other things, the company argued that under FIFRA Section 3(c)(7), EPA is authorized to condition the approval of a registration only on the subsequent submission of

test data required for the registration. Congress intended to limit EPA's authority to impose conditions, Woodstream said.

The court rejected that argument, saying EPA has authority to place conditions on registrations other than those specified in Section 3(c)(7).

In its decision, the court said EPA balanced the potential for unreasonable effects on the environment with the impact of refusing registration for a number of rodenticides, which could affect pest control needs.

If EPA had not granted the conditional registrations and amended registrations on Woodstream's products, its only other option would have been to deny those registrations outright, the court said.

Court Says Deadline Reasonable

The agency selected a deadline that was far enough in the future for producers to distribute and sell existing products, but not so far that “unreasonable adverse effects on the environment would result,” the decision said.

EPA's condition allowed Woodstream three unrestricted years in a market it would not have been able to enter otherwise, while the company could also use that time to come into compliance with the risk mitigation decision, the court said.

A spokesman for Woodstream Co. said the company had no comment on the decision.